

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulation
Office of Administrative Hearings
(DLS Control No. 20-046)**

Overview and Legal and Fiscal Impact

This regulation concerns waivers for fee assessments and payments within the Office of Administrative Hearings (OAH).

The regulation presents no legal issues of concern.

There is no fiscal impact on State or local agencies.

Regulation of COMAR Affected

Office of Administrative Hearings:

Fees: Fee Assessment and Payment; Waivers: COMAR 28.03.01.06

Legal Analysis

Background

Currently, OAH is required to waive filing and subpoena processing fees for a person that, when the request is filed: (1) is exempt from filing and subpoena processing fees, as specified; (2) is represented by counsel retained through any legal services program which receives State funding or funding through the Maryland Legal Services Corporation; or (3) applies for and is granted a waiver based on indigence. Indigent persons are authorized to apply for a fee waiver by including an appropriate affidavit and supporting documentation with a request for a hearing or request for a subpoena.

Summary of Regulation

The regulation specifies another method of demonstrating indigence to obtain a fee waiver. Specifically, the regulation authorizes an indigent person to apply for a fee waiver by including with the request for a hearing or request for a subpoena documentation that the person is receiving public assistance under a specified program. According to OAH, the purpose of the regulation is to add a simple, cost-effective method of demonstrating indigence, consistent with current practice.

Legal Issues

The regulation presents no legal issues of concern.

Statutory Authority and Legislative Intent

OAH cites §§ 9-1604, 10-206, and 10-215 of the State Government Article as authority for the regulation. Section 9-1604, in pertinent part, requires OAH to adopt regulations to implement the Administrative Procedure Act, and specifies that fees may not be charged to petitioners determined by OAH to be unable to pay the fees. Section 10-206 requires OAH to adopt regulations to govern the procedures and practice in all contested cases delegated to OAH.

The relevant authority is correct and complete. The regulation complies with the legislative intent of the law.

Technical Corrections and Special Notes

In response to suggestions from the Department of Legislative Services, OAH staff made corrections to the cited text of the current regulation.

Fiscal Analysis

There is no fiscal impact on State or local agencies.

Agency Estimate of Projected Fiscal Impact

The office advises that the regulation has no impact on State or local governments as it generally reflects current practice. The Department of Legislative Services concurs.

Impact on Budget

There is no impact on the State operating or capital budget.

Agency Estimate of Projected Small Business Impact

The office advises that the regulation has minimal or no economic impact on small businesses in the State. The Department of Legislative Services concurs.

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